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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,009	08/31/2001	Daniel J. Reed	00-1048	9362
40158	7590	09/10/2004	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/944,009	Applicant(s) REED, DANIEL J.	
	Examiner Gloria R Weeks	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7,8,10-16,21-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,10,15,16 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,4,7,11,21-23 and 26 is/are rejected.
- 7) ☒ Claim(s) 3 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. This action is in response to Applicants' amendment received on July 21, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4, 7, 11, 21-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Butler et al. (USPN 3,301,101).

In reference to claims 1, 7, 11, 21-23 and 26, Butler et al. discloses an adapter for converting a hammer tool into a multiple-impact object driving tool, the hammer tool having a housing (2) with a barrel portion (4) including a rear section and a nose section, the hammer having a reciprocating impact member (28), the adapter comprising: a shroud (8) for removably mounting on the hammer tool, having a bore (102) formed through the upper shroud (8) between a forward end and rearward end, the rearward end of the shroud removably receiving a portion of the hammer device and having a outer surface diameter larger than the outer surface diameter of the forward end, thereby including a frusta-conical intermediate portion; a drive punch (6) positioned in the bore (102) of the shroud (8) with a rear section, including retaining means (94), for being impacted by the reciprocating impact member (6) and a forward end for impacting an object (142) to be driven; and a guide bushing (10) extending forwardly from the shroud (8), having a forward and rearward end, a channel (114) extending through the guide bushing (10) between the forward and rearward ends for receiving a portion of the object (142) to be driven,

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the guide bushing (10) being slidably mounted (figures 5-6) on the front portion of the shroud (8) such that the guide bushing (10) is movable between an extended position (figure 5) and a retracted position (figure 6); wherein the channel of the guide bushing (10) has an entire length and the entire length is substantially uniform in diameter along the entire length, and the uniform diameter being slightly larger than the forward end of the drive punch (6).

In reference to claim 4 and its limitations as stated above, Butler et al. discloses an adapter for converting a hammer tool into a multiple-impact object driving tool additionally comprising a biasing means (12) for biasing the guide bushing (10) into an extended position (figure 5) with respect to the shroud (8).

Allowable Subject Matter

8. Claim 3, 12-14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 8, 10, 15, 16 and 24 are allowed.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 4, 7, 11, 23 and 26 have been considered but are moot in view of the new ground(s) of rejection. Examiner has found that Butler et al. discloses a retractable guide bushing connected to an attachable shroud, wherein the guide bushing has a channel with a "substantially" uniform internal diameter, as claimed by Applicant. However, if it was deemed that the channel of the guide bushing disclosed by Butler et al. is not completely uniform in diameter, the retractable guide bushing (6) of Pfister et al. (USPN

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6,123,243) clearly discloses that it is well known in the art of setting tools to use a guide bushing have channel with a single uniform diameter.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

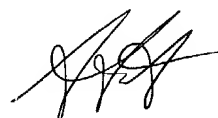
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks
Examiner
Art Unit 3721



grw
September 8, 2004



SCOTT A. SMITH
PRIMARY EXAMINER